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The U.S. Government's Global Hunger & Food Security Initiative



VIETNAM RATE Country Summary

This document presents the findings of the Regional Agricultural Trade Environment (RATE) assessment conducted in the ASEAN region in 2012 by the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) Project



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VIETNAM

Regional Agricultural Trade Environment (RATE) Assessment Country Summary

USAID Maximizing Agricultural Revenue through Knowledge, Enterprise Development
and Trade (MARKET) Project

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On the cover: Fresh pineapples for sale near Haiphong
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RATE COUNTRY SUMMARY—VIETNAM

This country summary sets forth general findings from the RATE assessment conducted in Vietnam in June and July 2012. In addition to comprehensive desk research, assessors conducted a series of interviews across the country's agriculture sector, including with national and local government officials, producers associations, owners of small, medium, and large agriculture enterprises, market workers, traders, women's business groups, nongovernment organizations (NGOs), foreign investors, research institutes, international donors, the banking and lending community, and others. Interviews, observations, and, in October 2012, validating workshops took place in Ho Chi Minh City and Hanoi. In all, the team consulted more than 100 stakeholders in Vietnam.

What is RATE?

The Regional Agricultural Trade Environment (RATE) assessment is a tool designed to examine the agricultural trade enabling environments of countries in a particular region, with the objective of identifying a range of legal and institutional reforms that will help the region and individual countries become more efficient in their approach to trade.

In recent years, the international community has committed to a variety of multicountry initiatives that emphasize the collection of benchmark information. Such benchmarks allow participating countries to compare their economic and business environments to others. The accepted use of such benchmarks helps countries identify relative areas of strength and weakness and to track evolution in those rankings over time. Examples include the World Economic Forum's Global Competitiveness reports, the International Finance Corporation's Doing Business reports, and the United States Agency for International Development's (USAID) BizCLIR (Business Climate Legal and Institutional Reform) and AgCLIR (Agribusiness Climate Legal and Institutional Reform) reports.

Building on such initiatives—USAID's BizCLIR and AgCLIR, in particular—the ASEAN RATE inquiry has been conducted for Member States of the Association of Southeast Asian Nations (ASEAN) under the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) project funded by USAID. RATE builds a knowledge base for addressing the priorities of USAID's Feed the Future initiative, which aims to increase investment in agriculture and rural development as both a lever for combating food insecurity and an engine for broader economic growth, prosperity, and stability.

RATE collects certain quantitative and qualitative information across relevant agriculture value chains in ten topical areas critical to trade in agricultural products sector, namely (1) the conditions for enterprise formality; (2) access to finance; (3) infrastructure; (4) intellectual property; (5) competition; (6) nontariff barriers; (7) trade facilitation; (8) gender; (9) transparency and accountability; and (10) food security. Each RATE country assessment, set forth in a separate detailed, country-specific presentation and reported through a series of Country Summaries, benchmarks the national enabling environment for agribusiness and agricultural trade by identifying the private sector priorities, key market constraints, and successful national initiatives in support of agricultural trade in individual ASEAN Member States.

INTRODUCTION

In recent years, the Vietnamese economy has experienced remarkable growth—around 7 percent per year between 2000 and 2009, and more than 4 percent between 2009 and 2011—resulting in sharply decreased rates of poverty. The remaining poor are harder to reach; they face difficult challenges—of isolation, limited assets, low levels of education, poor health status—and poverty reduction has become less responsive to economic growth. Ethnic minority poverty is a persistent challenge. At 21.6 percent of GDP, agriculture does not represent as high a contribution to the national economy as it did before the turn of the millennium, but in real numbers agricultural output has grown significantly. The country’s advances in agricultural trade, including through investments in coffee, aquaculture, paddy rice, and other cash and staple crops, have contributed in particular to reductions in rural poverty rates and both directly and indirectly to greater food security. A streamlined system for trade facilitation, allowing goods to flow in and out of the country more efficiently, along with significant strengthening of human resources, has bolstered the country’s reputation as an attractive trading partner. However, among the tens of millions of Vietnamese households who have risen out of poverty over the past decade, many have incomes very near the poverty line and remain vulnerable to falling back into poverty as a result of weather-induced or economic shocks.

Figure I. Representative Statistics Pertaining to Agricultural Trade: Vietnam

Population (2013)	92.5 mn
Agriculture as % of GDP (2012)	21.6
Services as % of GDP (2012)	37.6
Industry as % of GDP (2012)	40.8
% of population engaged in agriculture (2012)	48
Exports (all sectors, 2012)	\$114.3 bn
Imports (all sectors, 2012)	\$114.3 bn
% of women participating in agriculture sector (2009)	65
Female/Male literacy rate (%) (2012)	91.4/ 95.4
Female labor participation rate (women over 15, 2011)	73
Prevalence of under-nourishment (2011) % of population	9
Percent of children underweight (2008, % of children under 5)	20.2
% of workers informally self-employed or informal wage-earners	82

SOURCES: CIA Factbook; World Bank

Still, certain legal and institutional conditions in Vietnam aggravate the growing gap in wealth between the country’s urban and rural populations. Although Vietnam has committed to and made good on a number of structural reforms, a plethora of state-owned enterprises (SOEs) continues to dominate the economy. Equitization—the main vehicle used to restructure SOEs in the past—has slowed in recent years, prolonging inefficient systems and rendering the environment for private sector participation less competitive. In addition, an opaque and complex business licensing environment both discourages participation in the formal economy and undermines private investment, particularly in rural enterprises. Access to finance in Vietnam is especially challenging, with high interest rates and low public trust in banks discouraging the growth of enterprises. These and other issues are highlighted in this summary of the RATE assessment completed in Vietnam.

TOPICAL SUMMARIES

For each ASEAN Member State surveyed by RATE, assessors asked approximately 150 questions—around 15 per topic—related to the legal framework, implementing institutions, supporting institutions, and social dynamics of each of the ten topics studied by the assessment. This section summarizes the answers to these questions by setting forth the primary issues, opportunities, and challenges associated with each topic.

The Informal Economy

Throughout ASEAN, recent generations have witnessed a transition from economies grounded in informal activity—mostly agriculture and casual trade—to more formal and clearly defined relationships between enterprises and the regulating authority of government.

When producers, processors, and traders assume the various aspects of enterprise formality, their businesses can grow and their goods can circulate more freely, within and across borders, enhancing food security.

Formalization begins with registration with one or more government agencies, and can result, in theory, in a number of advantages, among them limited liability, better access to finance, more opportunities to participate in higher-value markets, greater ability to enforce contracts, and even the benefits of a strengthened community tax base. For many informal producers, processors, and traders, however, registration with national or local authorities often means assuming the costs of formal tax collection and licensing interventions, without immediate or obvious tangible benefits. Enterprises typically remain informal because they perceive formalization as too costly, too complex, and not worth the effort. As long documented by the World Bank's *Doing Business* initiative, however, persistent, widespread enterprise informality undermines improvements to productivity and quality, access to markets, and economic growth.¹

Although Vietnam's economy has grown dramatically in recent years, there remains a large and economically significant informal sector, among farmers, businesses and workers, particularly in the rural areas. Vietnam lacks consensus over its actual numbers of informal rural enterprises (including agricultural enterprises), non-farm household businesses, and larger informal companies, but recent studies indicate that the informal economy contributes about 20 percent of national GDP and that nearly one-quarter of the country's 46 million jobs are "off the books."² The informal sector is only marginally integrated with Vietnam's robust formal economy, and most participants are among the 43 percent of the country earning less than \$2 per day.³ For farmers, informal sector activities act as a way of diversifying and reducing household risk. The fact of their informality deprives many businesses of the ability to grow through entering into contracts and otherwise doing business with formal companies. Informal businesses rarely tap into the opportunities, services, networks, and strengthened productivity that are available to formal enterprises.

In 2011, Vietnam's government revised its formal registration process such that a company's registration number is now its tax number, eliminating the need for an additional bureaucratic procedure. In addition, in 2009 Vietnam created a number of one-stop shops that combine the process for obtaining business

¹ See World Bank, *Doing Business in 2013* (2012), and accompanying literature at www.DoingBusiness.org.

² Cling, Jean-Pierre et al., "The Informal Economy in Vietnam." Report for the ILO (2010).

³ World Bank, World Development Indicators.

licenses and fulfilling tax requirements. It also eliminated the need for an official business seal. On average, according to *Doing Business in 2013*, it takes 34 days to launch a formal enterprise, a figure that, though significantly improved in recent years, still is one of the poorer showings in ASEAN.

In fact, there is considerable confusion among smaller entrepreneurs about the requirements for business formalization. Under one decree, Vietnam offers an alternative to the limited liability company model for small enterprises—but this method still requires a degree of formalization. According to a 2010 study by the ILO on informality, “a vast majority of informal household businesses actually believe that registration is not compulsory, although ... most of them should be registered [in some fashion] according to official regulations.”⁴ More clarity on the requirements of registration, particularly for small rural enterprises, would improve public understanding of the issue.

Vietnam’s informal entrepreneurs are well versed in the case for *not* formalizing. They cite complex licensing or certification procedures, burdensome paperwork and taxation procedures, and corruption. Although formalization may in theory bring certain benefits, such as access to capital or opportunities to participate in certain business organizations, these are not immediately evident to business people. The Ministry of Finance has encouraged increased formalization through amnesty programs and reduced taxes for businesses that come forward.



Confusion remains in Vietnam about the registration obligations for microbusinesses.

A number of services exist throughout Vietnam that aim to support the formalization of agricultural enterprises, including government and donor-sponsored programs, business association-sponsored programs, NGOs, and for-profit services. Their impact is uneven. Most private services—including consultants, accountants, IT services, and others—serve larger, formally registered enterprises. These services are far more accessible in urban areas, while rural enterprises tend to rely more on the assistance of extension services, producer organizations, and NGOs. Some larger companies that seek higher-quality products are eager to see the development of small, private consulting companies that could make up for weaknesses in public extension programs.

Notably, there is no system of public searches of registered enterprises, notwithstanding a provision in the Investment Law that a national business registration database be developed. A few local people’s committees have developed resources to find registered companies, but foreign investors in particular continue to press for a functioning registration database as required by the country’s Investment Law.

⁴ Cling, Jean-Pierre et al., “The Informal Economy in Vietnam.” Report for the ILO (2010).

Access to Finance

Producers, processors, and traders seek finance for a variety of purposes: for operations; to bridge the gap between production of goods and receipt of payment for them; for capital purchases, farming equipment, or storage facilities; to cover swings in supply and demand conditions; or to launch a processing enterprise.⁵ In many instances, they are disappointed. The risks involved in lending are often too great for banks and other lenders to assume. These include ambiguous and highly disputed land rights, weak property registration systems, limited forms of collateral, inadequate financial infrastructure, and the particular risks faced in agriculture, such as seasonality and geographic clustering of risk.

A variety of safe and accessible opportunities to access finance helps producers, processors, and traders cope with supply and demand risks, strengthen their enterprises, and contribute to food market stability.

Although a range of financial services are available across agricultural value chains in Vietnam, access to finance always remains a challenge, even more so since the prime lending rate rose so dramatically in 2011, from around 13 percent to 18 percent per year. Although the Government through the State Bank of Vietnam in 2012 attempted to push lending rates down to as low as 9-10 percent for selected loan programs in some banks to infuse more credit into the system, it has not had the desired effect; Vietnam has continued to experience negative or stagnant credit growth since 2011.⁶ Exporters of various products (agricultural and otherwise) assert that a shortage of capital makes it difficult for them to access credit. At the producer end of the spectrum, farmers tend to refuse to sell their goods on credit to traders and exporters. Financing of rising input prices for raw materials is a continuous problem in the agriculture and aquaculture sector. Moreover, throughout the agriculture sector, there is widespread mistrust of banks. It is not unusual for small and even larger enterprises to hold their money in foreign currency and gold, without ever trusting their money to a bank. Barely more than 10 percent of the population uses bank services regularly.

The growth of Vietnam's industrial and service sectors over the past generation has resulted in better responsiveness to their needs by such institutions as the central bank and the Ministry of Finance to those sectors, as opposed to the agriculture sector. Although the government has decreed that banks must provide credit to agricultural enterprises, banks generally avoid this requirement, and generally have not moved to minimize risks associated with agricultural lending.

The Ministry of Finance makes loans of cash or inputs directly to farmers or through small lending programs, but these are reportedly subject to rapidly changing government policies and government interest in particular sectors. In general, the government has focused on direct lending to its agricultural constituencies, rather than loan guarantee schemes through banks. Government loans tend to be short-term loans, whereas the agricultural sector badly needs long-term finance to make capital improvements and productivity advancements. Microcredit through private lending institutions is not significantly developed yet in Vietnam.

⁵ See USAID/Enabling Agricultural Trade, Agribusiness Commercial Legal and Institutional Reform project, *Lessons from the Field: Getting Credit* (2011).

⁶ World Bank, Update on Recent Economic Development, 2013.

In recent years, Vietnam has established two key institutions associated with promoting better access to finance—a collateral registry and a credit bureau. Vietnam’s system for registration of collateral is considered well in place and easy to use. It is unified geographically and by asset type, with an electronic database indexed by debtors’ names. However, the implementation of Vietnam’s 2009 decree on secured transactions remains weak in practice and has not yet led to widespread use of movable assets to leverage financing. With respect to the agriculture sector, banks reportedly are not inclined to use nontraditional, moveable collateral such as equipment, crops, and livestock as a means of securing loans.

A Credit Information Center (CIC), established in 1999, exists as an independent unit under the State Bank of Vietnam. The CIC is also charged with overseeing independent credit bureaus, which track customers’ legal profiles, financial statuses, outstanding loans, loan guarantees, loan security and bad debt. To date, just one private credit bureau has been established. The main users of credit bureau information are banks, government agencies, the State Bank of Vietnam and other financial institutions. Whether information from the country’s microfinance clients feeds into the bureaus is not clear. Still, conditions for building a credit history improved in 2010 when the government allowed borrowers to examine their credit reports and correct errors.⁷

The issue of crop insurance in Vietnam is enormously challenging, given the high risks associated with noncommercialized agricultural production, weather, pest, and other factors. As of 2012, the Ministry of Finance had established a pilot program for crop insurance covering 20 provinces. The program provides 100 percent insurance fee support for the poorest farmers, 80 percent insurance for those who are just under the threshold, and 60 percent for those slightly above the threshold. The implementation period of the pilot project is 2011-2013 and results will be evaluated afterwards, with an eye toward scaling up insurance availability to national coverage.

Infrastructure

A nation’s success in agricultural trade, whether domestically or in regional or international markets, is generally only as good as the ability of its producers to get their products to the next stop on the value chain—that is, to local markets, distributors, and processors, as well as to storage facilities, warehouses, and ports.

Producers and processors also need access to inputs that are transported over long distances, including seed, feed, fertilizer, and equipment. All actors need access to market information that comes through reliable telecommunications. To support commerce that extends beyond the farm gate, governments must invest in and maintain a supporting infrastructure that incorporates transport, water, power supplies, and telecommunications.

Strong markets for agricultural products need public facilities that support production, processing, and trade, such as roads, rail, ports, wholesale markets, storage facilities, and access to communications and information.

Developing and linking its infrastructure across a geographically diverse and highly fragmented landscape is one of Vietnam’s critical challenges as it strives to become integrated into regional and global supply chains for agricultural products. A great deal has been accomplished over the past generation, but rural areas in particular remain disadvantaged by poor feeder roads and too few bridges to facilitate rapid

⁷ World Bank, *Doing Business*, Summary of Business Reforms (Vietnam).

access to markets for cash crops and staple foods. The Communist Party's long-range plan for infrastructure development calls for expanding national highways, modernizing railways, upgrading five airports, and improving IT services and opportunities. In addition, through its socioeconomic Development Plans (2006-2010 and 2011-2015), and various sectoral infrastructure plans, the national government plans to upgrade electricity, transport, ports, and irrigation. Recognizing the multitude of needs in infrastructure development, Vietnam promulgated Decision No. 71 on the Regulation on Pilot Investment using Public-Private Partnership Model in 2010 to encourage private investment in infrastructure. However, regulations to support Decision No. 71 have not yet been put in place, delaying the process to develop public-private partnerships.

In its five-year strategic plan submitted in 2009, the Ministry of Transportation identified five core transport sector problems: (i) incomplete and disintegrated institutional system and development plans; (ii) unsatisfactory quality and capacity of transport service; (iii) lack in quality and quantity of transport infrastructure in both urban and rural areas; (iv) insufficient state budget and other financial sources; and (v) complications from the regional and global economy. There is wide consensus that these problems—mainly arising from insufficient resources and inputs as well remaining policy, institutional, and operational inefficiencies—cause environmental and social degradation and hamper socioeconomic development. To date, Vietnam's emphasis has been to separate policy, regulatory, and operator roles with respect to infrastructure. A multimodal orientation is still lacking, resulting in imbalances and integration problems between subsectors, and coordination with investments and programs in other sectors remains poor.



Small and large cargo carriers compete for space in Haiphong.

The 1999 Law on Water Resources provides that “Water resources are under the ownership of the entire population and uniformly managed by the state.” The legal framework governing water resources contains many overlaps, gaps, contradictions, and even conflicts. In particular, irrigation management in Vietnam suffers from confusion over authority over resources, a problem associated with decentralization of government powers. Also, more capital is needed for operation and maintenance of irrigation works.⁸

At nearly 14 percent, the post-harvest loss of rice in the Mekong Delta remains high, and other crops throughout the country reportedly suffer from similar rates of loss. Vietnam's Institute of Agriculture Engineering and Post-Harvest Technology has endeavored to address this problem by creating incentives

⁸ Viet Nam News, “Mekong Delta's post-harvest rice loss reaches \$635 million” (July 5, 2011).

for increased investments in rice storage silos, which help diminish moisture content that leads to grain breakage, as well as in milling infrastructure, which adds value to the rice for sale. Also, in July 2012, the State Bank of Vietnam announced a revamped subsidy policy to reduce crop losses for farmers following their agricultural and aquatic harvesting. Subsidies are offered to institutions, households, and individuals who borrow money to purchase machines and equipment aimed at reducing their product spoilage or loss in value following harvest. Enterprises that invest in rice and maize storage, or in storage for aquatic products (including cold storage in fishing vessels), vegetables, fruit, and coffee, are eligible for government support. Five banks have committed to providing loans with subsidized and investment development interest rates. Tracking the results of this program would prove instructive to future interventions. The Vietnamese government has, in the past, encouraged aquaculture in general by offering very low cost loans for investment in processing plants.⁹

Through regular meetings and roundtables, the private sector, including associations and their committees representing domestic and international enterprises, communicates with the government about specific national infrastructure priorities. The Vietnam Chamber of Commerce and Industry (VCCI), although closely associated with the government, and individual product associations have lobbied for improved seaports, airport infrastructure, roads, railways, and inland waterways. Government infrastructure decisions are influenced by private sector priorities; however, inadequate disclosure of decisions underlying procurement decisions undermines the relationship between commodity and trade associations, the government, and their shared constituents.

Intellectual Property Rights

Intellectual property (IP) is increasingly viewed as a key factor in development. Intellectual property is a branch of law that protects intangible property such as inventions, new plant varieties, geographical indications, and trademarks and protects against dishonest business practices. An effective IP system makes markets more predictable and reduces the risk of investment. This benefits local producers and better positions a country to attract foreign investment, as international investors give substantial weight to IP protection in their decisions on where to locate their business investments.

Investment in a vibrant food economy is enhanced by systems supporting the recognition and protection of new plant varieties, and of patents, trademarks, and copyrights used in connection with equipment, products, and services.

Although most public discussion of IP centers on the manufacturing sector, IP is also enormously important in agricultural trade. For example, throughout Vietnam's rural and urban areas, counterfeit food products and inputs (including fertilizers and pesticides) undermine the value of national and international trademarks and even threaten the safety of the food supply and the safety of farmers handling potentially dangerous chemicals. The European Chamber of Commerce (EuroCham) has been especially vocal on IP matters, asserting that the Vietnamese population in general has not been made sufficiently aware of the harm caused by IP violations, nor of the opportunities inherent in an economy that chooses to "innovate" (and protect those innovations) rather than "imitate."¹⁰ Vietnam remains one of 30 countries on the 2013

⁹ See USAID/MARKET. "Aquaculture Value Chain Assessment" (January 2013).

¹⁰ See EuroCham/Vietnam, Trade and Investment Recommendations (2012).

Special 301 Intellectual Property Rights (IPR) “Watch List” of the Office of the U.S. Trade Representative, although it is no longer on the more severe “Priority Watch List” of 10 additional countries. However, this fact evidences continuing U.S. concern that stakeholders throughout Vietnam’s economy are not sufficiently committed to sustaining a fair, transparent, and efficient IPR regime.



Coffee, a rapidly growing sector for Vietnam, can benefit significantly from a good intellectual property rights framework to protect trademarks and brand names.

In 2005, Vietnam enacted its core Law on Intellectual Property, which was widely welcomed for its protection of patents, trademarks, geographical indications, and other forms of IP. Yet inadequate legal protection persists, particularly for trademarks. Producers of domestic products, including SOEs, routinely mark their goods with confusing symbols that aim to take advantage of the good will generated by better-known brands. In addition, according to EuroCham, Vietnamese individuals and companies, as well as foreign parties, continue to register domain names containing well-known trademarks of others, taking advantage of Vietnam’s “first to register” system. Official rulings concerning “confusing similarities” between trademarks are not consistent with international best practices, according to representatives of large foreign investors.

In late 2006, Vietnam became the 63rd member of the Union for the Protection of New Plant Varieties (UPOV). In June 2009, the National Assembly adopted several amendments to the IP Law that expanded the types of parties eligible to apply for plant variety protection, by adding foreign organizations and individuals having permanent residence or offices or having establishments producing or trading in plant varieties in countries that are signatories to agreements on plant variety protection for which Vietnam is also a member. The amendments also established the Plant Variety Protection Office of Vietnam, the authority that considers applications for plant variety protection. The 2009 amendments aimed to bring Vietnamese law and practice into line with international commitments and to reconcile the IP law’s

inconsistencies with other laws. The amended IP law extended the scope of protection for plant varieties to include harvested materials as well as propagating materials, as required by UPOV.

University researchers and administrators in Vietnam often lack a robust understanding of intellectual property, but they are beginning to integrate lessons in IP as a prerequisite for technology transfer. Organizations largely lack IP management capacity, although some are themselves beginning to seek patents and plant variety protections. For example, the Institute for Biotechnology of the Vietnam Academy of Science and Technology has obtained about 20 patents. Similarly, the Hanoi Agricultural University's Science Management Office has handled IP issues for its researchers and faculty members and registered three or four patents and six to seven trademarks, largely on new crop varieties.

IP is an area that often requires the guidance of lawyers. Vietnam's legal profession has matured considerably in recent years, primarily due to investments made by international law firms and the large numbers of young lawyers obtaining graduate legal education abroad. Lawyers that represent clients in the acquisition or enforcement of intellectual property rights tend to be associated with larger firms and, in most instances, educated abroad. Particularly in the area of patents, it also appears that there may be a need to provide training on how to prepare and prosecute original applications, as domestic applicants are significantly less likely to obtain patents than non-resident applicants. For Vietnam's smaller and medium-sized enterprises, there is not yet a significant number of lawyers available to advise on IP matters, particularly on agricultural trade issues.

Competition

Competition is at the heart of any successful market economy, including the agriculture sector. True competition promotes economic efficiency, consumer choice and welfare, and overall economic growth and development. Competition forces producers to work as efficiently as possible and offer the most attractive array

of price and quality options in response to consumer demand. When consumers dislike the offerings of one seller, they can turn to others. This ability of consumers to "vote with their wallets" imposes a rigorous discipline on sellers to satisfy consumer preferences.

Competition compels producers, processors, and traders to be more efficient and innovative and to offer the most attractive array of price and quality options in response to consumer demand.

Over the past generation, national policy and practice has significantly reflected an increasing confidence in free-market, competition-oriented principles as the foundation for long-term growth and productivity in Vietnam's agriculture sector. The private sector in particular demonstrates a stronger understanding of the link between market competition and improved conditions in product quality, price, and availability. This confidence has been bolstered by actual successes in industries dominated by the private sector, including coffee and aquaculture, and underscored by optimism in launching new agricultural value chains, most recently cocoa. In the coffee industry, growers have shown new confidence in their ability to seek higher prices when demand increases. With certain regional distinctions, Vietnamese society is generally accepting of free trade and the notion that commerce may produce short-term "winners and losers." Nonetheless, there remains evidence of skepticism over free trade in some areas, such as in tea, where current players are wary of the competition presented by new market entrants.

Although conditions for competition have improved greatly, the vast presence of SOEs in the Vietnamese economy, as well as equitized SOEs whose stock remains significantly held by the public sector, continues to undermine private sector access to agricultural markets. Private

companies attest that SOEs often have better access to the best land, the best opportunities for finance, and the best conditions for importing agricultural inputs. Most agricultural markets are open to private sector participation, apart from rice, sugar, and fertilizer. Increasingly, the government allows private rice traders to sell rice on the open market, though quantities and price are heavily monitored and controlled. Reflecting a lack of consensus within the government about intervening in the market for sugar, in 2012, the Ministry of Agriculture and Rural Development (MARD) advocated large government purchases and stockpiling, while the Ministry of Trade advised against price supports or subsidies for sugar. As for fertilizer, input subsidies (including discounts on fuel) for production aim to support farmers, but in practice both domestic and imported fertilizer remains generally too expensive for small farmers.

Vietnam's Competition Law took effect in 2005. Eight years later, the practical impact of the law has proven uneven. A significant consultative relationship between the Vietnamese Competition Authority and the U.S. Federal Trade Commission from 2008 through 2011 yielded both evident progress and stagnation. Vietnam's ranking in the World Economic Forum's annual Global Competitiveness Report initially improved dramatically in the area of "effectiveness of anti-monopoly policy" (but then fell after the program was ended). In addition, Vietnam succeeded during that time in preparing a Consumer Protection law that is widely considered to be in step with international best practice. With respect both to "extent of market dominance" and "intensity of local competition," Vietnam's GCR scores diminished, but then, in the 2012-13 survey, "intensity of local competition" rebounded considerably. USAID's formal evaluation of the program considered the possible explanations for these mixed results:

... Vietnam has not been able to translate [its policy] success into observable improvements in competition outcomes on the ground. One explanation for this is that the VCA has, with the assistance of ACCP, raised the standards and expectations of the businesses who responded to the GCR survey through their education, publicity, and outreach efforts between 2008 and 2010. It may be that the Vietnamese government has not yet matched those increased standards and expectations by reducing the power of incumbent SOEs. It may also be that the increased awareness raised standards and expectations among businesses, causing the other two indicators to get worse before they potentially get better. This type of phenomenon is actually quite common. For example, anti-corruption campaigns can create increased awareness of the issue which causes people to recognize the problem and assess it more critically.¹¹

Figure 3. Vietnam's WEF Global Competitiveness Report Rankings for "Competition"

	2007-08	2010-11	2012-13
Effectiveness of anti-monopoly policy	100	58	82
Extent of market dominance	41	48	73
Intensity of local competition	61	75	44

Note: 2007-2008, 131 countries surveyed; 2010-11, 139 countries surveyed; 2012-13, 144 countries surveyed.

¹¹ See William M. Butterfield, et al., "Outlawing Monopoly: A Programmatic Evaluation of USAID's ASEAN Competition and Consumer Protection Program from a Development Perspective" (USAID/Regional Development Mission for Asia, September 2011) at 22.

Vietnam’s network of research institutions, including those centering on agriculture generally and others directed at specific crops, supports the goals of economic efficiency and consumer welfare. They are committed to developing solutions that will allow Vietnamese products to compete in the international and regional marketplace. Although Vietnam has made important strides in improving the quality of its agricultural products, the quality of Vietnamese agricultural products, both raw and processed, remains a critical concern to researchers and traders, including with respect to seafood, fruits, vegetables, coffee, cocoa, and fresh milk.

In the educational arena, students of economics and business increasingly graduate with a robust understanding of free-market policies and priorities. Law students learn about the legal aspects of true competition in a society.



The environment for competition has a direct impact on the quality of products in the marketplace.

Nontariff Barriers

Although the formal definition of what constitutes a “nontariff barrier” (NTB) varies according to the source, NTBs are generally viewed as government-imposed or government-sponsored measures—other than tariffs—that are used to protect a domestic industry from international competition. A great many measures can be interpreted as an NTB, ranging from restrictions on food imports due to food safety considerations, to business licensing requirements that are especially difficult for outsiders to fulfill, to outright quotas. For the purposes of

Markets function more efficiently when trade is managed through transparent tariffs and legitimate health and safety measures, rather than via more opaque quotas, licenses, and other barriers.

agricultural trade, NTBs may include import restrictions on inputs, sanitary and phytosanitary (SPS) regulations, animal and plant health standards, food safety standards, business licensing procedures, labeling and packaging requirements, and constraints on trade in services. Some of these are sanctioned by the world trade community through agreements, while others can be challenged by trade partners as restrictive of trade.

The Vietnamese market is relatively hospitable to imports of agricultural inputs, including seed, fertilizer, and others. For example, the country's emerging cocoa industry has been significantly fostered by government willingness to permit imports of key inputs for this new crop, including new plants and fertilizer. On the other hand, private companies indicate that SOEs continue to benefit from preferable import conditions—for example, a state-owned dairy company reportedly imports cattle with fewer administrative burdens than those faced by independent companies. (There seems to be a diminishing number of ways, however, that SOEs benefit from preferable market conditions; increasingly, their management is held to tangible standards of productivity and returns on investment.)

Vietnam is endeavoring to improve its legal and regulatory environment for food standards and product quality. Its body of laws, regulations, sources of authority, and actual practices is highly fragmented, however, and difficult for producers and importers to access and understand. In the mid-2000s, Vietnam enacted a Law of Goods Quality and a Law on Standards and Technical Regulations that aimed to bring direction and order to the system. The government upgraded SPS standards to international standards before Vietnam's WTO accession in 2007. These laws were supplemented in 2010 by a new Law on Food Safety. The actual obligations of food safety and standards authorities remain unclear, including the Vietnamese Food Authority and government laboratories involved in product testing and approval.

With respect to trade in services, in its bilateral trade agreement with the United States and its WTO services schedule, Vietnam committed to significant liberalization in a broad array of service sectors, including financial services, telecommunications, express delivery, professional services, and distribution services. In addition, Vietnam has committed to participate in mutual recognition agreements for qualifications in major professional services to facilitate free movement of professional/skilled labor in ASEAN. In practice, Vietnam, like most ASEAN countries, has yet to embrace trade in services to the extent envisioned by the goals of the ASEAN Framework Agreement on Services. Vietnam lacks a clear regulatory framework providing for mutual qualification recognition in professional services. In addition, it continues to limit foreign ownership in certain services, such as telecommunications.

Representing one of the country's largest categories of NTBs, Vietnam's multistep business registration process, which is usually followed by complex licensing requirements, is characterized by some as unpredictable and highly corrupt. As asserted by EuroCham, "The impact of corruption on Vietnam's investment and business environment cannot be underestimated ... European and other foreign companies continue to face problems of corruption in connection with obtaining an investment certificate, regulatory approvals, importing goods into Vietnam, obtaining protection for their intellectual property rights, and other legal rights."¹² Regulatory agencies' responsibilities overlap and respective roles are ill defined, creating considerable confusion in the private sector, especially among small, informal enterprises. Petty corruption in government organizations continues to burden small, medium, and large businesses alike.

¹² EuroCham/Vietnam, Trade and Investment Recommendations (2012).

Vietnam's government consults regularly with representatives from various agricultural value chains, including farmers, middlemen, processing plants, distributors and trading companies, as part of its commitment to reducing the regulatory burden caused by business licenses. In addition, Vietnam's legal profession increasingly contributes to the navigation of the country's NTBs. Today, with many attorneys leaving large international firms to start locally owned boutique firms, the trend is toward providing legal services at reasonable cost to more medium-sized agricultural firms. Likewise, many lawyers appear to understand their roles as advocates for the private sector. Nonetheless, the realities of business in Vietnam mean that most lawyers are, in the words of one expert, "60 percent professional and 40 percent fixer," implying that the profession is compromised by informal payments to state actors and other corrupt practices. On the other hand, small and medium-sized traders do not show much demand for trade-related legal services.

Trade Facilitation

Prudent and effective international trade facilitation requires the provision of high-quality, transparent government services at the border, including predictable and consistent procedures by customs agencies, health and agriculture inspectors, immigration agencies, and others. Governments throughout the world increasingly recognize that capable and responsible trade-related operations are a prerequisite for development.

The volume and efficiency of markets improve when procedures and controls governing the movement of goods across borders are transparent, accessible, and consistently administered by customs agencies and other key border agencies, including port authorities, health agencies, quarantine services, and immigration.

Vietnam's Law on Customs 2001 (amended 2005) aimed to move the country from a highly intrusive system of shipment inspections to one of risk-management and minimized inspections, based on assessments of legal compliance by the goods' owners and the level of risk of a breach. Since that time, with significant donor support, Vietnam has heavily invested in customs modernization which has endeavored to speed the time in which goods can be moved through ports. This is especially important with regard to perishable agricultural exports, including dairy, fish, and livestock products.

Since 2006, Vietnam has reduced its typical import time (in number of days) from 36 to 21, according to the World Bank's *Doing Business 2013* data. Over the same period, the time spent exporting products has diminished from 35 to 21 days. Although this improvement is significant, Vietnam's trade facilitation practices remain slow compared to some of its ASEAN neighbors, including Singapore, Malaysia, Thailand, and Indonesia, as well as to most OECD countries. One observation is that, although Vietnam has greatly improved its customs regime, other aspects of trade facilitation, including port efficiency, the overall regulatory environment, and ICT have not been sufficiently addressed.

In September 2011, Vietnam established a National Steering Committee for oversight of development of both the ASEAN Single Window (ASW) and a national single window (NSW) for customs. The steering committee, headed by the General Department of Customs, will help direct, coordinate, guide, inspect, and implement the ASW and NSW initiatives. The NSW mechanism will include the use of e-payments for duties and taxes. The government aims for the NSW to be fully operational by December 2014. Since the establishment of the Steering Committee, Vietnam has worked to develop the legal documents and procedures, prepare information technology infrastructure, and construct NSW customs information technology systems.

Vietnam’s plant quarantine system is under the management of the Plant Protection Department, which is responsible for monitoring the national performance of plant quarantine tasks and for formulating plant quarantine policies and standards. With its accession to the WTO, Vietnam is adopting legislation on phytosanitary measures in the light of the WTO SPS Agreement and other international standards to harmonize phytosanitary measures. Recently enacted animal inspection policies and procedures have improved inspection procedures for veterinary hygiene and food safety and for veterinary medicines and vaccines.

Despite the improvement in Vietnam’s reputation for trade facilitation, informal payments are said to be required for virtually every trade transaction involving provincial governments. For example, Vietnamese shrimp processors face shortages of supplies and must import from other countries like Ecuador, India, Indonesia, and Thailand that are less expensive. However, the import process is complicated by overlapping and time-consuming procedures, numerous government department approvals, and excessive amounts of paperwork that can delay customs clearance for up to 60 days. Expedited processing is possible through unofficial means. In addition, much of the informal private sector appears to be taking advantage of the country’s porous borders with China. In the words of one observer, a trader may “follow all the best rules regarding SPS in his day job, and then eat a pig smuggled in by motorbike.”

Gender

As underscored by USAID’s 2012 Gender Equality Policy, gender equality and female empowerment are “fundamental to the realization of human rights and key to effective and sustainable development outcomes.

Strengthening educational and economic opportunities for women can lead to more robust and equitable economic growth.

Although many gender gaps have narrowed over the past two decades, substantial inequalities remain across every development priority worldwide—from political participation to economic inclusion—and remain a significant challenge across all sectors in which USAID works, particularly in low-income and conflict-affected countries and among disadvantaged groups.”

Article 63 of Vietnam’s 1992 Constitution provides that male and female citizens have equal “political, economic, cultural, social and family” rights and specifically bans discrimination against women. The principle of non-gender discrimination is also set forth in many of Vietnam’s statutes, including the Civil Procedure Code, the Civil Code, and the Law on the Organization of the Courts. Vietnam’s Gender Equality Law, enacted in 2006, addresses a variety of issues, including wage gaps based on gender, and aims to eliminate sex discrimination in all aspects of society. The law has limited impact, however, because it is generally regarded as aspirational rather than directive. In 2003, Vietnam’s Comprehensive Poverty Reduction and Growth Strategy identified many constraints on the livelihoods of women, including poor treatment in remote and rural areas, and committed the government to “ensure that necessary resources are given to ministries, agencies and provinces to construct and implement policies and programs that support gender equality.” A National Strategy on Gender Equality (2011-20) underscores the government’s continued commitment to gender equality.

While the Labor Code prohibits “gender discrimination against female employees” (Article 111), other clauses reinforce traditionally accepted gender roles. For example, the Labor Law disallows certain work for women and perpetuates the “double burden” of family care by assigning all parental benefits, such as

maternity leave, to women. A disparate retirement age—55 for women and 60 for men—has long been debated and decried by many authorities as discriminatory, but legislative reform has not been forthcoming.¹³

Gender differences can be particularly important with respect to land rights, access to finance, and conditions for literacy and education. In Vietnam, all land is owned by the state. Individuals are assigned “land use rights” for an unlimited period. The Land Law of 2004 sets out a relatively clear, nondiscriminatory system for land use rights and transactions. The holder of land use rights are entitled to a Land Use Right Certificate (LURC), which may be used as proof of ownership and collateral against loans. Pursuant to the law, the names of both spouses are required to be written on the LURC. However, very few individuals have sought to change their LURCs independently; rather, LURCs are usually changed only when a transaction requires proof that the land is not being transferred without both spouses’ permission. Inheritance questions must be resolved before a new LURC is issued. With respect to inheritance, the Civil Code provides men and women with equal opportunities to write a will or to benefit as an heir. Notwithstanding the general equality of Vietnamese law, inheritance rights are often especially difficult for women to exercise in many of the country’s rural areas.

With respect to women’s access to finance, Vietnam’s banking legislation is robust and nondiscriminatory, although both women and men are affected the rise in the prime lending rate (in 2011 it went from about 13 percent to 18 percent). Improvements have been made in recent years toward expanding opportunities for smaller enterprises and individual borrowers to save and borrow money. Since women are more likely to be smaller entrepreneurs and savers, the changes in banking legislation may disproportionately benefit women. The legal framework specifically supports the establishment of small microfinance institutions for low-income households, and many of these institutions target women. However, apart from Vietnam’s largest bank, Sacombank, which offers specific products for women, most formal institutions do little to target women for their services and products. In addition, while progress has been made in adding women’s names to LURCs when land is sold, women have reported difficulty in getting their names on LURCs for the purpose of securing collateral, particularly in rural areas.



Women entrepreneurs are becoming more important in linking producers with markets.

¹³ USAID/GenderCLIR, Women’s Participation in Vietnam’s Economy: Agenda for Action. Gender Climate Legal and Institutional Reform Diagnostic (2010).

In recent years, Vietnam’s gender gap in primary schooling has been nearly eliminated, albeit less so in rural areas than in urban areas. Vietnam’s literacy rate improved between 1989 and 2011, from 87.3 percent to 93.5 percent. Women have caught up and even surpassed men in attaining college degrees, except among certain ethnic minority groups. Notwithstanding these achievements, there remains a significant degree of segregation of men and women in their fields of study. Women generally lack vocational training opportunities, and social dynamics prevent them from exploring vocations other than the traditional. This issue warrants more study and public discussion.

The Vietnam Chamber of Commerce and Industry, comprised of all registered enterprises in the country and with nine branches across Vietnam, has a very active Women’s Entrepreneurs Council. Established in 2001, the Council supplements the services provided to all businesses and has a training program dedicated to female entrepreneurs. Women-owned businesses also are significantly represented in sector-specific agricultural associations, including associations of seafood producers and traders and producers and traders of fruit. To a limited extent, women can be found in leadership positions in trade and agricultural associations, but most high-level positions are occupied by men.

Transparency and Accountability

When discussed in terms of governance, the term “transparency” pertains to the free and full availability of critical information to the public. “Accountability” refers to the authority which citizens confer to those they elect to govern on their behalf, such that it is always limited, provisional, temporary, and subject to recall through regular elections or other arrangements. In the absence of transparency and accountability, corruption ensues. In the popular definition long espoused by Transparency International (TI), corruption is “the abuse of entrusted power for private gain.” As TI has long maintained, corruption hurts everyone who depends on the integrity of people in a position of authority. It also raises the cost of doing business. Thus, issues of transparency, accountability, and corruption are relevant in all sectors of an economy, including in public and private institutions involved in the agriculture sector.

Transparency and accountability in all aspects of agricultural trade—including production, processing and trade—facilitate increases in regional and international cooperation and trade.

In Vietnam, representative private sector entities note that the government seems keen to be more transparent, but does not seem to know how to go about it. Unlike some other countries in ASEAN, there appear to be few, if any, public campaigns against corruption in Vietnam. The government clearly values the small/medium-sized enterprise and agricultural sectors and has endeavored to engage in dialogue and collaboration with representatives of these groups. Government representatives also note that the WTO requires 60 days of private sector review of laws, and that the government fully complies with this. On the other hand, in the view of the private sector, the overlapping responsibilities of regulatory agencies and their ill-defined roles create confusion, especially among small, informal enterprises. Petty corruption in government organizations continues to burden small, medium, and large businesses alike.

In 2005, Vietnam enacted an Anticorruption Law, which criminalizes several types of corruption, establishes asset disclosure requirements for governmental officials, and provides for whistleblower protection. In 2009, Vietnam ratified the UN Convention against Corruption and issued a National Strategy for the Prevention and Combating of Corruption Towards 2020. That strategy includes an action plan for implementation, which to date has been criticized for its weak support. The Global Integrity

Report (2009) finds that Vietnam's anticorruption legal framework is strong, but that weaknesses lie in the implementation, enforcement, and knowledge of the responsible agencies.

Vietnam does not have a singular and independent anticorruption agency; however, it operates a number of other authorities. The Central Steering Committee against Corruption, created by the 2005 Anticorruption Law, is chaired by the Prime Minister and mandated to guide, coordinate, and oversee the government's anticorruption efforts. The office faces funding and enforcement challenges. In addition, the law created steering committees at the local level, but their independence is questionable. Also created in 2005, a Government Inspectorate manages corruption inspections, complaints, and settlements and functions as an Ombudsman and an Anticorruption Bureau. In addition, each ministry has its own inspectorate that reports to the Inspectorate and to its own ministry hierarchy. The Inspectorate organizes anticorruption dialogue with the donor community and other stakeholders and is perceived as responsive and engaged in the fight against corruption. Finally, the People's Procuracy was established in 2006 to prosecute corruption cases. It prosecuted approximately 280 cases each year between 2007 and 2011.

Corruption is considered especially pervasive at the local level. Although they are required to declare their assets, local officials have been implicated in bribe-taking schemes involving land administration and management as well as public procurement. In early 2012, for example, a Party investigation found a \$7.6 million shortfall in funds spent to support a water management project, implemented by an SOE, in the Mekong Delta. In addition, municipal systems of primary and secondary education are considered highly corrupt, with teachers known for selling answers to exam questions and students and others seeking to falsify grades and diplomas.

Corporate governance is covered by the Law on Enterprises (2005), the Model Charter (2002), and the Law on Securities (2006). These cover shareholder protection, disclosure, enforcement, and company oversight and boards, and their substance is in step with international best practice, such as the corporate governance standards espoused by the OECD. Still, there seems to be a significant divide between anticorruption policies generally espoused or accepted in principle by business associations, and the actual practices of most members of these associations. A study by the Vietnam Chamber of Commerce and Industry released in June 2012 confirmed that corruption in Vietnam remains pervasive.¹⁴ The VCCI survey of 270 enterprises, associations, and government officials found that most private sector actors are aware of the negative impact of corruption on the business environment, while still often engaging in corrupt practices themselves. About 40 percent of respondents said that "unofficial expenditures" account for about 1 percent of their annual business expenditures, while 13 percent said such expenses constitute up to 5 percent. More than 60 percent of those surveyed reported that corruption occurred between enterprises and the government agencies during business registration as well as the complicated and ambiguous licensing processes.

¹⁴ AsiaNews.IT, "To do business, more than half of Vietnamese companies pay bribes" (April 10, 2012) (citing study by VCCI and Radio Free Asia).



Lack of transparency filters through the economy down to the markets.

Food Security

The policy framework for food security in Vietnam consists of a number of resolutions, programs, and strategies. Although this framework, codified by Resolution No. 63/NQ-CP on National Food Security, refers to many aspects of food security including nutrition, infrastructure, and agricultural research and training, much of its focus is on the production and sale of rice. For Vietnam and other ASEAN Member States, food security is intrinsically associated with the production of rice. Particularly for the poor in ASEAN Member States, rice is the main staple grain and the single most important food in the diet.¹⁵ In Vietnam, the processing and distribution of rice are substantially controlled by the VINAFOOD enterprises, which are state-owned.

Food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food to meet food preferences and dietary needs for active and healthy lives.

Resolution No. 63 on National Food Security came into force in December 2009. Pursuant to this initiative, Vietnam's vision for national food security is the following:

¹⁵ See Timmer, Peter C. (2010) The Changing Role of Rice in Asia's Food Security. Asian Development Bank.

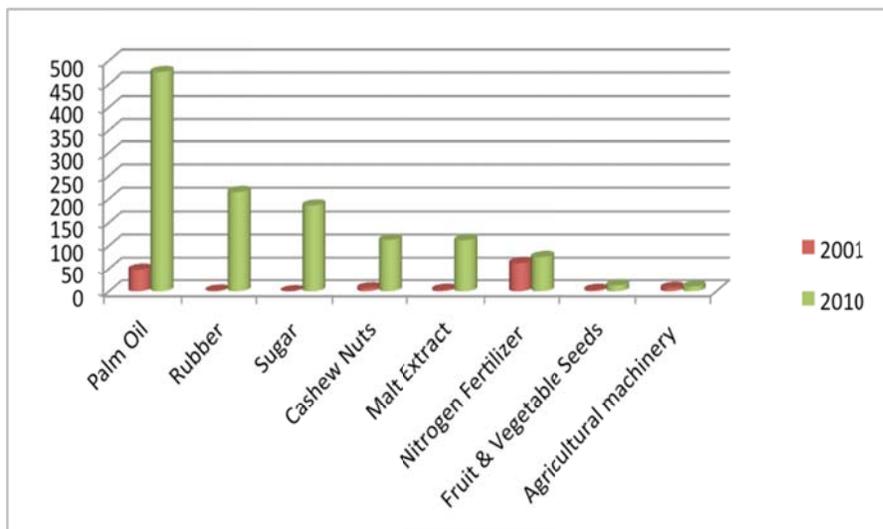
By 2020 with a vision towards 2030, to ensure adequate food supply sources with an output higher than the population growth rate; to put an end to food shortage and hunger and raise meal quality; to ensure that rice producers earn profits average more than 30% over production costs.

Resolution No. 63 focuses on ensuring adequate food supply sources for short-term and long-term national food security; meeting the nutritional needs of the Vietnamese people; ending food shortages and hunger; improving food consumption structure and quality; increasing intensive rice farming; and ensuring that rice producers earn higher profits. It specifically addresses the following:

- Food production and rice land planning
- Infrastructure, scientific and technological development, including construction of irrigation works
- Construction of warehouses for food reserves and preservation
- Selection, creation, and production of adequate plant varieties and animal breeds of high yield and quality, etc.
- Human resource training
- Consolidation of food circulation and export system
- Renovation of food production and processing.

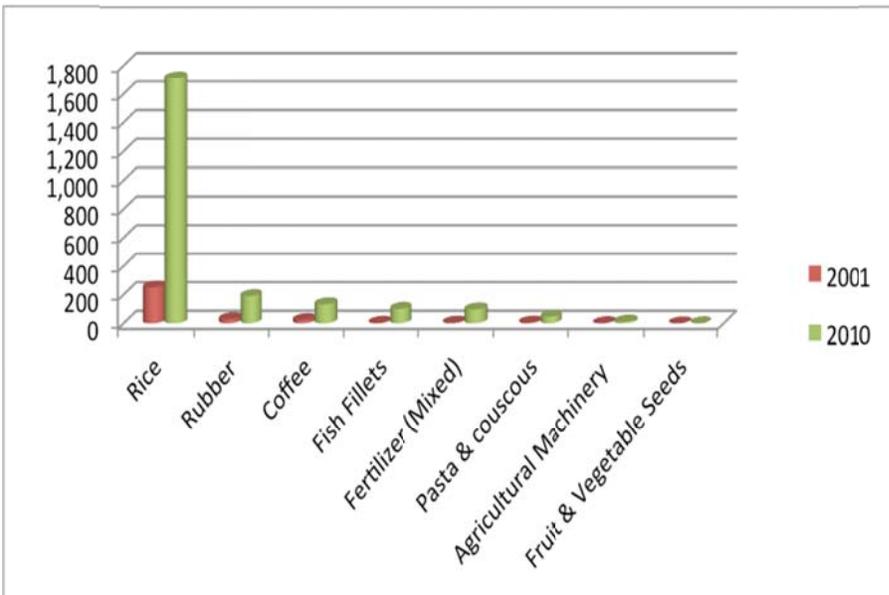
Fundamentally, Vietnam's food security framework aims to reduce the percentage of people who do not have enough rice to eat, as well as reduce the percentage of the population who remain undernourished (currently 9 percent, according to the World Bank). As the world's second largest exporter of rice, the country's central food security issue is that of distribution and access, not availability. Resolution No. 63 tries to address the loss of prime, rice-producing land to manufacturing and urbanization and further encourages farmers to stay in farming through measures to increase their incomes.

Figure 4. Vietnam's Major Agricultural Imports from ASEAN Member States, plus Imports of Key Inputs, 2001-2010 (US\$ millions)



As costs for agricultural inputs rise, there is increasing concern about tariff policy and its impact on food security. The Ministry of Finance increased the tariff on fertilizer in 2010 from 5 percent to 6.5 percent, adding to the financial burdens of producers.

Figure 5. Vietnam's Major Agricultural Exports to ASEAN Member States, plus Exports of Key Inputs, 2001-2010 (US\$ millions)



Vietnam does not regularly provide free or subsidized food to food-insecure people. However, the government supplies food in emergency cases. Since food security in Vietnam is so closely related to paddy production, climate change mitigation strategies are increasingly integrated into the country's food security policy framework.

Vietnam's adherence to its formal commitments to regional and international trade is generally stable and robust. The institutions charged with promoting food security generally act in a manner consistent with those commitments, although the mechanics of rice production are dominated by the government, rather than the private sector. Vietnam's regional trade in rice also supports the food security policies of its ASEAN neighbors, though rice prices are regarded in the region as unusually high. In fact, foreign buyers of Vietnamese rice cancelled orders for more than 90,000 tons in April and May 2012, in favor of lower-priced rice from India.

Additionally, because of certain attempts to protect Vietnamese input industries, feed prices are very high, contributing to potential food insecurity by increasing costs of animal husbandry enterprises. In aquaculture, high feed costs are driven by high world market prices for key feed inputs.

CONCLUSION

Although Vietnam has a long way to go to meet international best practices in the areas of intellectual property rights protection, competition, and transparency and accountability, Vietnam's experiences offer critical and positive lessons for future growth in the region and beyond. In recent years, Vietnam has made tremendous strides with respect to its legal and institutional environment for agricultural trade and food security, particularly in the areas of trade policy, trade facilitation, and, for some larger enterprises, access to finance. As it worked towards WTO ascension, Vietnam had to make significant improvements in its trade, competition and IPR legal and regulatory frameworks, by integrating international and regional best practices. However, Vietnam must continue to build on these improvements by building and supporting the institutions necessary to implement these new laws. Vietnam also offers a relatively progressive environment for gender equality, with women increasingly empowered to build and grow private enterprises. Finally, trade is an integral part of Vietnam's food security strategy, thereby supporting the food security policies of other ASEAN Member States.